

AMERICAN PARTITION CORPORATION *and* FEDERAL LABOR UNION,  
LOCAL #22026, A. F. OF L., PETITIONER. *Case No. 4-RC-1496.*  
*July 7, 1952*

### Supplemental Decision and Direction

Pursuant to a Decision and Direction of Election issued herein on April 29, 1952, an election by secret ballot was conducted on May 19, 1952, under the supervision and direction of the Regional Director for the Fourth Region, among the employees of the Employer in the unit found appropriate by the Board. Following the election, a tally of ballots was furnished the parties. The tally shows that of approximately 24 eligible voters, 11 cast ballots for, and 11 against, the Petitioner, with 2 ballots challenged. Thereafter, the Petitioner filed objections to the election.

The Regional Director investigated the objections to the election and the challenges. In a report and recommendation on objections and challenges issued on June 4, 1952, and duly served upon the parties, he recommended that the objections and the challenge to the ballot of Alfred Schoonmaker be overruled, and the challenge to the ballot of August Meyer be sustained. No exceptions have been filed to the Regional Director's recommendation for overruling the Petitioner's objections and for sustaining the challenge to August Meyer's ballot.

The Employer has filed exceptions to the recommendation for opening and counting the challenged ballot of Alfred Schoonmaker, not upon the ground that Schoonmaker was ineligible to vote,<sup>1</sup> but because to count his ballot now would destroy the secrecy of the ballot. We find no merit in this contention. It is true that Schoonmaker's vote will be publicly known if his ballot is opened and counted, but this is an unavoidable result of the challenge procedure. In the present case, only one challenged vote is involved, but the same argument can be made to opening two, three, four, or any number of challenged ballots, since there is always the possibility that all challenged voters will vote the same way and their choices will therefore become known. We believe that the policies of the Act will best be effectuated by counting the ballots of all eligible voters in determining the choice of a bargaining representative, even if, as the result of the challenge procedure, the choice of one or more eligible voters has to become public knowledge.

<sup>1</sup> The Petitioner challenged Schoonmaker's right to vote

As there have been no exceptions filed to the merits of the Regional Director's recommendations for disposing of the objections to the election and the challenges, we hereby adopt them and overrule the Petitioner's objections to the election, sustain the challenge to the ballot of August Meyer, and overrule that to the ballot of Alfred Schoonmaker. We shall direct that Schoonmaker's ballot be opened and counted.

### Direction

IT IS HEREBY DIRECTED that the Regional Director for the Fourth Region shall, within ten (10) days from the date of this Direction, open and count the ballot of Alfred Schoonmaker, and shall thereafter serve upon the parties a supplemental tally of ballots, including therein the count of this ballot.

MEMBERS STYLES and PETERSON took no part in the consideration of the above Supplemental Decision and Direction.

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SAM BURKA, HARRY L. BURKA, DORA BURKA & NORMAN H. BURKA, PARTNERS D/B/A BLUE BANNER LAUNDRY & CLEANERS and CLEANERS & LAUNDRY WORKERS, LOCAL 457, AMALGAMATED CLOTHING WORKERS OF AMERICA, CIO, PETITIONER. *Case No. 5-RC-975. July 7, 1952*

### Supplemental Decision and Certification of Representatives

On April 3, 1952, pursuant to a Decision and Direction of Election issued by the Board on March 10, 1952,<sup>1</sup> an election by secret ballot was conducted under the direction and supervision of the Regional Director for the Fifth Region, among the employees of the Employer in the unit found appropriate in the Decision. At the conclusion of the election, the parties were furnished with a tally of ballots which shows that, of approximately 66 eligible voters, 64 cast ballots, of which 34 were for the Petitioner, 29 were against the Petitioner, and 1 was void.

On April 9, 1952, the Employer filed objections to conduct affecting the results of the election. In accordance with the Rules and Regulations of the Board, the Regional Director conducted an investigation of the objections and on May 1, 1952, issued and served upon the parties his report on objections, in which he recommended that the objections be overruled as they did not raise substantial and material issues with respect to the election. Thereafter, the Employer filed timely exceptions to the Regional Director's report on objections.

As a basis for its objections, the Employer alleged that (1) just before the election, the Petitioner, in writing and otherwise, dissem-

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<sup>1</sup> Not reported in printed volumes of Board decisions.